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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Computer III Further Remand Proceedings: Bell Operating
Company Provision of Enhanced Services, (CC Docket No. 95-20)

Dear Mr. Caton:

The Commission has before it in this proceeding a clear choice: whether or not to reimpose costly and inefficient structural separation, or to confirm (for the third time), based on a full record dating back to 1985, the propriety of BOC structural integration for enhanced services. As SWBT pointed out in its reply comments filed on May 19, 1995, the record supports the conclusion that the costs of separation far outweigh the benefits. On this point, SWBT offers the following observations.

Deployment of Enhanced Services

As SWBT demonstrated in its comments filed on April 7, 1995, the enhanced voice and data services industry is vigorously competitive. The BOCs are the leading provider in only one small segment (approximately 7%) of that industry -- voice mail. The growth in the voice mail segment has been fueled by demand in the consumer market -- residence and small business customers. What the Commission must understand is that it was only after the BOCs were allowed to enter that market on an integrated basis that consumer demand began to be met. Clearly, the efficiencies of integration were the trigger for BOC entry, the result being delivery of service to what was previously a grossly underserved consumer market.¹

¹Opponents of BOC integration would argue that the penetration of the consumer market for services such as voice mail is only the result of BOC abuse of CPNI. As SWBT has shown before, this argument is a red herring. For years the non-BOC service providers had that market to themselves, and chose not to serve

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The question then becomes whether or not BOCs would continue to deliver existing and new services to the consumer market (or to the market in general) if the efficiencies of integration disappear. **In SWBT's case, the viability of enhanced services is questionable under that circumstance.** SWBT has filed CEI plans for four new enhanced services: Payment Processing Service, Internet Access, Facsimile, and PC Backup and Recovery. In addition, SWBT already offers (under previously approved CEI plans) Voice Messaging Service and Protocol Conversion Service. If these services were forced to stand alone in terms of administrative and support systems, sales and marketing, and other functions, the increased cost of providing the services could cause them to fail the business case test, in which case they would not be provided to the market. Specifically, SWBT can state unequivocally that it would not offer Payment Processing, Protocol Conversion, or certain Enhanced Fax services under a structural separation requirement.

While SWBT cannot state with certainty that enhanced services such as Internet Access and PC Backup and Recovery would not be offered under structural separation, some form of integration of functions such as billing, service ordering, maintenance, service assurance and testing, etc. is essential. A possible alternative is to integrate these (and perhaps future services) into systems which might exist in other nonregulated affiliates such as the yellow pages or cellular companies. The feasibility and cost of such integration is unknown at this time. It is clear, however, that the time required to examine this alternative will cause delay in delivering services to the market. It also appears that the efficiencies of integration with nontelco systems will be inferior to integration with the regulated telephone company systems. Telephone company systems are far more adaptable to inclusion of many enhanced voice and data services than are those of other, less symbiotic systems.

Even if nontelco systems integration is feasible, a significant hurdle would be sales and marketing of the enhanced services. The business viability of services designed for consumer ("mass market") demand depends upon extensive market reach and penetration. Either of two circumstances can kill a service: failure to sufficiently reach the market, or too high a cost of market reach. No nonregulated affiliate of SWBT has sales distribution channels comparable to the regulated telephone company, making these

it. BOC use of CPNI had no part in the reluctance of non-BOC providers to provide voice mail or other services to the "mass market." Indeed, anyone can address the mass market by several simple means, including using the white pages directory to target customers.

services susceptible to either or both of the "killer" conditions.

SWBT's experience with voice mail is an example of the importance of telco provided sales. This integrated sales capability was an essential part of the viability of the business case for voice mail. Had SWBT not been allowed to provide sales for its VMS affiliate, it is not likely that service would have been introduced.² At best, the introduction would have been delayed for an unpredictable amount of time, as would be the case with all other enhanced services.

Technical Integration

Obviously, for services being delivered today on an integrated basis, a retreat to full separation will require that network elements providing enhanced services be carved out of the regulated network. Ignoring momentarily the cost and inefficiency involved, the question for some services is whether separation is even technically possible. For at least one of SWBT's services, the answer is no.

Protocol conversion is provided via SWBT's packet switching service. It is not only integrated, it is an inherent part of the switching technology and is, in fact, done on a transparent basis within the network. **To require separation of the enhanced and basic portions of this service would mean that SWBT would simply not be able to provide protocol conversion at all.** The Commission needs to consider that protocol conversion is inherent not only in packet switching, but in all advanced switching technologies such as ATM. Furthermore, protocol conversion is becoming as essential to communications as wires and spectrum. Without the ability of devices utilizing different protocols to communicate with one another, the NII -- much less the GII -- is in grave jeopardy.

Convergence

Convergence is becoming as understandable a phenomenon as the information superhighway. It has moved from the obscure corners of technical and financial publications to the business section of the newspaper to the front page and popular press. It is an immutable and undeniable "coming together" of communications technologies and industry

²While the existing customer base for voice messaging is sufficiently large that the product probably would not be withdrawn from the market even if integration were prohibited in the future, sales capability would be sharply curtailed.

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participants for the purpose of creating vast capacity for communications and making all forms of communications delivery indistinguishable from one another.

In an era of convergence, it is antithetical that structural separation be reimposed. The fact that separation is unnecessary to assure vibrant competition (as demonstrated in the record in this proceeding) makes it all the more extreme. Congress apparently agrees. Both versions of the pending legislation contain a mechanism for the benefits of convergence to accrue -- either through forbearance of a separation requirement upon a public interest finding by the FCC, or through an explicit sunset of any separation requirement.

Summary

If the FCC were to reimpose structural separation on the BOCs for purposes of providing enhanced services, there would be a significant degradation of consumer benefits. SWBT (and most probably other BOCs) would be forced by imposed inefficiencies to curtail, delay, or cease altogether providing certain services. Other services could not be offered, or advanced technologies deployed, because of the inherent integration of enhanced services. Finally, in the face of the convergence phenomenon, the FCC would unnecessarily be swimming upstream against the flow of the marketplace.

The Commission should conclude this proceeding with a finding that, based on the evidence before it, the public interest is best served by again adopting a policy of integration, allowing the BOCs to provide enhanced services subject to nonstructural safeguards. Such a finding would be consistent with the evidence and with the apparent intent of Congress that market forces be allowed to work to the maximum extent possible.

Questions regarding this information may be directed to me on 326-8860.

Sincerely,



cc: Ms. Rose Crellin